

PUBLIC REVIEW DRAFT

CHAPTER 8. ANTIDegradation ANALYSIS

8.1 Introduction

This chapter briefly describes the state and federal antidegradation policies and how they apply to the Klamath River TMDL Action Plan.

8.2 State and Federal Antidegradation Policies

The state and federal antidegradation policies are independently enforceable requirements, despite being referred to as policies. The state antidegradation policy is titled the *Statement of Policy with Respect to Maintaining High Quality Waters in California*, codified in 23 CCR §2900, and is commonly known as “Resolution 68-16.” The California’s antidegradation policy is also included in the Basin Plan as a General Objective (Basin Plan pages 3-2.00 to 3-3.00). The federal antidegradation policy is found at 40 CFR §131.12 and it has been incorporated into the Basin Plan.

Although there are some differences, where the state and federal policies overlap they are consistent with each other. Both the state and federal antidegradation policies require that where surface waters are of higher quality than necessary to protect the designated beneficial uses, the high quality of those waters be maintained unless otherwise provided by the policies. Both policies require that certain findings be made before any adverse change to water quality can be permitted. The State Water Board has concluded that Resolution No. 68-16 incorporates the federal Antidegradation Policy (see State Water Board Order No. WQ 2001-16, p. 19, fn 83).

The state antidegradation policy applies to groundwater and surface water whose quality meets or exceeds (is better than) water quality objectives. The state policy establishes several conditions that must be met before the quality of high quality waters may be lowered by waste discharges.

The state must determine that lowering the quality of high quality waters:

1. Will be consistent with the maximum benefit to the people of the state,
2. Will not unreasonably affect present and anticipated beneficial uses of such water, and
3. Will not result in water quality less than that prescribed (e.g., by water quality objectives).

In addition, before any degradation of water quality is permitted, it must be shown that the discharge will be required to meet waste discharge requirements that result in best practicable treatment or control of the discharge necessary to assure that:

1. Pollution or nuisance will not occur;
2. The highest water quality consistent with maximum benefit to the people of the State is maintained.

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The federal antidegradation policy applies to surface water regardless of the quality of the water. In allowing an activity to degrade or lower water quality, the federal antidegradation policy requires states to ensure that:

1. The activity is necessary to accommodate important economic or social development in the area,
2. Water quality is adequate to protect and maintain existing beneficial uses fully, and
3. The highest statutory and regulatory requirements and best management practices for pollution control are achieved.

The federal antidegradation policy also applies to surface waters that do not meet the applicable water quality objectives (i.e., impaired waters). Under the federal policy, an activity or discharge would be prohibited if the activity will lower the quality of surface water that does not have assimilative capacity (i.e., the water quality is not sufficient to support designated beneficial uses) with limited exceptions set forth in federal regulations.

Both the state and federal antidegradation policies acknowledge that minor or repeated activities, even if individually small, can result in violation of antidegradation policies through cumulative effects, especially, for example, when the waste is a cumulative, persistent, or bioaccumulative pollutant.

8.3 Applicability to the Klamath River TMDL Action Plan

The proposed Klamath River TMDL Action Plan is based in part on the principles contained in the state and federal antidegradation policies. The recommended alternative – adoption of the proposed Klamath River TMDL Action Plan – will not delete or limit beneficial use designations and will not relax any water quality standard. This proposal will result in water quality improvements; therefore, state and federal antidegradation analyses are not required.

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